IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.35945 of 1997

Dated: 15-03-2007

Between:

Mir Ahmed Ali Khan, s/o Mir Burhan Ali Khan,
aged about 45 years,
r/o Jaddah, presently r/at Puranahavely,
Hyderabad.

... Petitioner

and

1. Government of India, rep. by its Principal Secretary,
   Revenue Department, Secretariat Buildings,
   Hyderabad and another.

... Respondents

ORDER:

This writ petition is filed seeking *mandamus* to declare the action of the Government in declaring part of the property in Sy.No.74/10, situated at Marredpally, Secunderabad as slum without issuing any notice to the original owner or his legal heirs and without conducting any enquiry; and also to declare the action of the

respondents in installing boards as Government lands in pursuance of the declaration filed by one land grabbers, as bad and contrary to law.

2. Factual scenario, according to petitioner, in nutshell, is as follows: The land in Sy.No.74 is a paigah property, which was divided into some plots and the landed property in Sy.No.74/10, consisting of Ac.39.30 guntas, situated at Mahendra Hills, East Marredpally, Secunderabad Cantonment was granted to one Mir Dildar Ali Khan in the year 1950, who died on 29-06-1970 leaving behind his son Mir Burhan Ali Khan and some other relatives. In the year 1975, Mir Burhan Ali Khan and his son

Mir Ahmed Ali Khan (petitioner herein) and some others among themselves entered into a family settlement by sharing the land in Sy.No.74/10 in equal shares. One E.N. Das filed a suit in O.S.No.55 of 1963 on the file of the Court of the III Additional Judge, City Civil Courts, Secunderabad seeking declaration of his title, claiming that he had purchased the property in question from the said Mir Dildar Ali Khan, and the same was dismissed on 16-02-1971. Aggrieved by the said judgment, he preferred C.C.C.A.No.152 of 1972 before this Court and the same was also dismissed on 02-03-1976. Assailing the said judgment, the said E.N.Das approached the Hon'ble Supreme Court by filing Civil Appeal No.828 of 1976 and during the pendency of the said appeal he died and his son viz., Bhagwan Das came on record as his legal representative, however, the Supreme Court dismissed the said appeal on 11-04-1979. In spite of the orders passed by different courts, the said Bhagwan Das approached the revenue authorities and got his name included in pattadar column. While the matter stood thus, in the year 1980, the Government, without enquiring into the matter and without issuing any notice to the possessors of the land in

question declared part of the land in question as slum area. In the year 1985 the Government also issued pattas to several persons and allowed them to raise constructions. In any of the proceedings the Government has not issued any notice to the pattadar Mir Dildar Ali Khan or to his legal heirs and no legal acquisition proceedings were initiated.

3. The grievance of the petitioner is that the respondents, without enquiring into the matter and without issuing any notice to the possessors of the land in question declared part of the land in question as slum area.

4. Heard learned counsel for the parties.

5. A counter affidavit is filed on behalf of the respondent Nos.1 and 2, wherein it is stated that petitioner is not in possession of the land in question and he has no right over the said property as the entire land in Sy.No.74 is a land belonging to the Government and against the encroachers of the said land, land grabbing case being L.G.C.No.167 of 1997 was instituted before the Special Court and the same is pending.

It is also stated in the counter affidavit that the Special Court has also directed to implead all the vendees of the societies and others, who are in possession of the land in question, particularly, the land in S.No.74 of Marredpally. It is further stated that in view of the pendency of LGC before the Special Court, instructions were issued to various authorities not to release connections, not to sanction construction permissions and not allow sale transactions.

6. It is stated that questioning the said instructions, all the societies, who are claiming land in Sy.No.74 filed W.P.No.13441 of

1998 and this Court dismissed the said writ petition observing that they can as well be impleaded in the said land grabbing case, pending before the Special Court.

7. Accordingly, the writ petition is disposed of observing that the petitioner can also come on record by impleading himself as a party-respondent in the said L.G.C.No.167 of 1997 on the file of the Special Court, as it is stated to be pending. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.15-03-2007
GLV